Patent NASA Case No.: NPO-20773-CU

REMARKS

The applicant has amended claim 18 to address a grammatical error problem.

The applicant provides the following information to respectfully traverse the above referenced objections and rejections. Claim 18 stands objected to due to informalities. Specifically, the word "been" was inadvertently inserted into the claim. Applicant has amended the claim to remove the word "been" and, therefore, this issue should be resolved.

Claims 1-7 and 15-27 stand rejected under 35 U.S.C. § 102(b) as unpatentable over Stoica et al., "Evolutionary Design of Electronic Devices and Circuits, Evolutionary Computation" IEEE CEC 99, July 1999. Specifically, the examiner indicates that all of the elements within the claims are disclosed in the reference.

35 U.S.C. § 102(b) indicates that an invention may not be patented if it is described in a publication more than one year prior to the filing date of an application for the invention. Therefore, in order to make a proper rejection under this section, such a reference, in order to be considered prior art, must be published more than one year prior to the effective filing date of an application. In the present case, the reference at issue does not meet this requirement.

The publication date of the reference, when it was presented at an IEEE conference, is July 1999. Thus, in order to be prior art under section 102(b), the application must have an effective filing date, as it relates to the disclosure of the reference, less than one year after July 1999. The present application was filed on January 29, 2002 as a continuation-in-part application claiming the priority date of application 09/395,235, filed on September 13, 1999. So, the effective filing date for everything disclosed in the present application that was disclosed in application 09/395,235 is September 13, 1999.

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Applicant asserts that the reference at issue merely discloses what was described in application 09/395,235, and, therefore, is not prior art against the present application. A quick comparison of the reference and application 09/395,235 (which ultimately issued as U.S. patent 6,728,666) shows that several of the figures from the reference were used as well as much of the language from the reference, including language specifically cited by the examiner in the present Action (compare, for example, page 1272, lines 4-9 of the reference cited by the examiner with column 1, lines 21-30 of the above noted patent). As such, it is clear that the reference is not prior art under 35 U.S.C. § 102(b) as the examiner suggests, and, therefore, the rejections referenced above are moot.

Finally, claims 8-14 stand rejected 35 U.S.C. § 103(a) as unpatentable over Stoica et al. in view of Koza et al., "Automated Synthesis of Computational Circuits Using Genetic Programming", 13-16 April 1997, IEEE Conference. In order to be a proper prior art reference under 35 U.S.C. § 103(a), a reference must be a proper prior art reference under one of the sections of 35 U.S.C. § 102. Since this was proven not to be the case above, applicant asserts that the Stoica et al. reference is not a proper prior art reference for the above referenced obviousness rejections, and, therefore, the rejections are moot.

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Accordingly, applicant believes that claims 1-27 are in condition for allowance and respectfully requests the examiner to withdraw all objections and rejections and allow said claims. Should the examiner need more information regarding this matter or have further suggestions regarding this application, feel free to call the undersigned at 818-354-7770.

Respectfully submitted,

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